

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Manuel P. Asensio, individually and as the parent  
of Eva Asensio, a minor child,

Plaintiffs,

-against-

18-CV-10933

Janet DiFiore, Chief Judge of New York State;  
Barbara Underwood, Attorney General of New  
York State; Andrew M. Cuomo, Governor of New  
York State; Adetokunbo O. Fasanya, New York  
County Family Court Magistrate; and Emilie Marie  
Bosak, individually,

AFFIDAVIT IN SUPPORT OF  
MOTION 1

JURY TRIAL DEMANDED

Defendants.

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AFFIDAVIT OF EYEWITNESS DELIBERATE AND MALICIOUS JUDICIAL  
CONDUCT

1. I, Manuel P. Asensio, swear that I am the Plaintiff in the above cited federal civil rights complaint, and the affiant in this Affidavit. I swear that I am fully familiar with the facts, factors and circumstances contained in this affidavit. I solemnly swear that the statements I make here are complete and true to the best of my knowledge including any matters stated upon personal information and belief, and that I consider all facts, factors and circumstances that are necessary to consider in making any statement based on personal information and belief.

2. Based upon the real, demonstrative and verified documentary evidence and information and belief, I swear the Janet DiFiore, Chief Judge of New York State, and her agents working in the Office of Court Administration, deliberately and maliciously conspired and colluded with each and every one of the 26 judges classified identified in this affidavit to violate laws and judicial conduct rules, and act dishonestly, to protect Defendant DiFiore, Defendant Fasanya and her "prohibited and impermissible domestic relations process," which the Plaintiff defines by acronym "PIDRP" in this complaint.

I do so swear:

  
Manuel P. Asensio

Sworn to before me this the 13th Day of December 2018

  
Notary Public

SAMUEL T RICHMAN  
Notary Public, State of New York  
No. 01R16339167  
Qualified in Kings County  
Commission Expires March 28, 2020

**CLASS ONE - CHIEF JUDGE OF STATE AND JUDGES OF THE COURT OF APPEALS**

1. The Hon. Justice Janet DiFiore, Chief Judge (2016-Present)
2. The Hon. Jonathan Lipmann, Chief Judge (2014-2015)

**CLASS TWO – ADMINISTRATIVE BOARD OF THE COURTS**

3. The Hon. Justice Ronaldo T. Acosta, Presiding Justice of the Appellate Division, First Dept.
4. The Hon. Justice Alan D. Scheinkman, Presiding Justice of the Appellate Division, Sec. Dept.
5. The Hon. Justice Elizabeth A. Garry, Presiding Justice of the Appellate Division, Third Dept.
6. The Hon. Justice Gerald J. Whalen, Presiding Justice of the Appellate Division, Fourth Dept.

**CLASS THREE – APPELLATE DIVISION, ORIGINAL PROCEEDING-CONSTITUTIONAL<sup>1</sup>**

1. The Hon. Justice Dianne T. Renwick (O.P. 130)
2. The Hon. Justice Sallie Manzanet-Daniels (O.P. 130)
3. The Hon. Justice Judith J. Gische (O.P. 130)
4. The Hon. Justice Marcy L. Kahn (O.P. 130)
5. The Hon. Justice Anil C. Singh (O.P. 130)

**CLASS FOUR – APPELLATE DIVISION, ORIGINAL PROCEEDINGS-REFRAINING<sup>2</sup>**

6. The Hon. Justice Peter Tom<sup>3</sup> (O.P. 124/125)
7. The Hon. Justice Ellen Gesmer (O.P. 124/125)
8. The Hon. Justice David Friedman (O.P. 124/125)

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<sup>1</sup> Special Original Proceeding under Article 78 rules and under Article 10 seeking relief from Defendant DiFiore's illegal unpublished rules that she uses to operate the PIDRP. Denied and dismissed without consideration of any fact, factors or circumstances, or reasoning so as to have no value and to operate to prevent a review or appeal. The COA including Defendant DiFiore then denied a motion to review the deliberate malicious act execute with full knowledge that Defendant DiFiore was and is in fact operating the PIDRP illegally, without authority.

<sup>2</sup> Special Original Proceeding under Article 78 seeking relief from Defendant DiFiore's collusion with Judge Silver to appoint Judge Bannon while denying the Plaintiff against to any process to address his custody issue. Denied and dismissed without consideration of any fact, factors or circumstances, or reasoning so as to have no value and to operate to prevent a review or appeal. The COA including Defendant DiFiore then denied a motion to review the deliberate malicious act execute with full knowledge that Defendant DiFiore was and is in fact operating the PIDRP illegally, without authority.

<sup>3</sup> former Presiding Justice of the Appellate Division, First Dept

**CLASS FIVE – APPELLATE DIVISION (EX PART/MISCONDUCT COMMUNICATIONS)<sup>4</sup>**

The Hon. Justice Peter Tom

The Hon. Justice Sallie Manzanet-Daniels<sup>5</sup>

9. The Hon. Justice Paul G. Feinman, Justice of the Court of Appeals<sup>6</sup>

10. The Hon. Justice Barbara R. Kapnick, Justice, Appellate Division, First Department<sup>7</sup>

**CLASS SIX – SUPREME COURT ADMINISTRATIVE DECISIONS**

11. The Hon. Justice George J. Silver, Deputy Chief Administrative Judges for NYC Courts<sup>8</sup>

12. The Hon. Justice Fern A. Fisher, former Deputy Chief Administrative Judges for NYC Courts

13. The Hon. Justice Deborah Kaplan, Administrative Judge, NY County Supreme Court, Civil

**CLASS SEVEN – NEW YORK CITY AND COUNTY FAMILY COURT,  
ADMINISTRATIVE ACTIONS**

14. The Hon. Justice Jeanette Ruiz, Administrative Judge, New York City Family Courts

15. The Hon. Justice Karen Lupuloff, Supervising Judge, NY County Family Court

16. The Hon. Justice Douglas E. Hoffman, former Supervising Judge, NY County Family Court

<sup>4</sup> Does not include the judges that were involved with the 18 denial of motions to stay and appeal to address Magistrate Fasanya's deliberate and malicious May 15, 2015, January 15, 2016 and September 17 and 21, 2016, and March 13, 2017, June 1 thru 30, 2017 and June 8, 2018 fabrication of ongoing jurisdiction after the Plaintiff's withdrawal and commence of his investigation. Denied and dismissed without consideration of any fact, factors or circumstances, or reasoning so as to have no value and to operate to prevent a review or appeal. The COA including Defendant DiFiore then denied a motion to review the deliberate malicious act execute with full knowledge that Defendant DiFiore was and is in fact operating the PIDRP illegally, without authority.

<sup>5</sup> Acted immediately with openly with sinister toward the Plaintiff and denied a motion to stay the appearance of Richard Spitzer based on Magistrate Fasanya's denial of the Plaintiff's right to depose Mr. Spitzer, Mr. Spitzer's refusal to respond to the Plaintiff's discovery demands in the Plaintiff's plenary action in Supreme Court against Mr. Spitzer and based on Magistrate Fasanya's effective admission of guilt by voluntarily withdrawing of his Sua Sponte Order to Show Cause against Rosemarie Barnett seeking to hold her in contempt for accusing Magistrate Fasanya of colluding with Mr. Spitzer. Magistrate Fasanya withdrew his motion when faced with evidence proving his in fact did collude with Mr. Spitzer.

<sup>6</sup> Twice acted in the matter as an associate justice of the Appellate Division for the First Department. Deliberately denied the Plaintiff's motion for stay and leave to appeal Defendant Fasanya's decisions on the Plaintiff's legal arguments based on Judiciary Law and the Family Court Act that were decisive during the Plaintiff's June 2017 proceedings with full knowledge that Defendant Fasanya intended to deny the Plaintiff's right to post a surety bond with a Notice to Appeal for a stay execution and to deny the Plaintiff's right to purge the alleged contempt and deliberately and maliciously execute an illegal in court arrest to collect illegal, unauthorized fees for his judicial appointees Carmen Restivo.

<sup>7</sup> Colluded with Defendant Fasanya and engaged in ex-parte communications with Defendant Fasanya's judicial appointee, Carmen Restivo.

<sup>8</sup> Dismissed without process, reasoning or explanation the Plaintiff's motion to Judge Assigned the Plaintiff's Article 78s to Judge Nancy Bannon



**CLASS EIGHT- SUPREME COURT, CIVIL PART SPECIAL PROCEEDINGS**

17. The Hon. Justice Barbara Jaffe, Justice of the Supreme Court, Civil Part
18. The Hon. Justice Nancy M. Bannon, Justice of the Supreme Court, Civil Part
19. The Hon. Justice Paul A. Goetz, Justice of the Supreme Court, Civil Part

**CLASS TEN – SUPREME COURT, MATRIMONIAL PART**

20. The Hon. Justice Laura E. Drager, Justice of the Supreme Court, Matrimonial Part<sup>9</sup>

**CLASS NINE – SUPREME COURT, CIVIL PART TORT ACTIONS**

21. The Hon. Justice Lynn R. Kotler, Justice of the Supreme Court, Civil Part

**CLASS ELEVEN –NEW YORK COUNTY FAMILY COURT, TRIAL COURT**

22. Adetokunbo O. Fasanya, Magistrate, NY County Family Court, Juvenile Delinquency Part
23. Serena Rosario, Support Magistrate, Queens County Family Court<sup>10</sup>

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<sup>9</sup> Engaged in ex parte communications with Magistrate Fasanya and took his ex parte reports and orally incorporated his reports into the record to justify summarily dismissing the Plaintiff's custody petition. Engaged in ex parte communications with Defendant Bosak's attorney, Susan Moss, and put on the record that there was an issue with services based on her ex parte communications, which was false. After refusing to enter a default order against Defendant Bosak for failing to reply to and appear for 3 consecutive custody petition court dates in a row and then dismissing the Plaintiff's petitions Sua Sponte including those for Thanksgiving and Christmas parent-child time and through calendaring decisions, repeatedly adjourning hearing dates, Judge Drager instructed her court guard to inflict pain on the Plaintiff's wrist with hand cuffs based solely on her will and ill temper and desire to communicate freely to avoid making a trustworthy record, which in reality would be useless under Defendant DiFiore's political administration.

<sup>10</sup> Deliberately violated FCA 424-a to protect Susan Moss' concealed agreement with Stefano Chitis from disclosure.